

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0270

## HOUSE BILL NO. 1045

Introduced by: The Committee on State Affairs at the request of the Department of  
Revenue

1 FOR AN ACT ENTITLED, An Act to prohibit the disclosure and use of personal information  
2 contained in certain motor vehicle records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms used in this Act mean:

- 7 (1) "Department," the Department of Revenue;
- 8 (2) "Disclose," to engage in any practice or conduct to make available and make known  
9 personal information contained in a motor vehicle record about a person to any other  
10 person, organization, or entity, by any means of communication;
- 11 (3) "Express consent," consent in writing, and includes consent that is conveyed  
12 electronically that bears an electronic signature;
- 13 (4) "Individual record," a motor vehicle record containing personal information about a  
14 designated person who is the subject of the record as identified in a request;
- 15 (5) "Motor vehicle record," any record that pertains to a motor vehicle registration,

motor vehicle title, or document issued by the department or any other state or local agency authorized to issue any such forms of credentials;

(6) "Personal information," information that identifies a person, including a social security number, driver identification number, name, address (but not the five-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, or registration status;

(7) "Record," includes any book, paper, photograph, photostat, card, film, tape, recording, electronic data, printout, or other documentary material regardless of physical form or characteristics.

Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as follows:

Notwithstanding any other provision of state law to the contrary, except as provided in sections 3 to 5, inclusive, of this Act, the department and any officer, employee, agent, or contractor thereof may not disclose personal information about any person obtained by the department in connection with a motor vehicle record. Under no circumstances may a person's social security number or medical or disability information from a motor vehicle record be disseminated, except for the purposes permitted by subdivisions (1), (3), and (5) of section 5 of this Act.

Section 3. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as follows:

Personal information shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle

1 manufacturers, and removal of nonowner records from the original owner records of motor  
2 vehicle manufacturers to carry out the purposes of Titles I and IV of the Anti Car Theft Act of  
3 1992, 15 U.S.C. 2021 et seq., as of January 1, 2001, the Automobile Information Disclosure  
4 Act, 15 U.S.C. 1231 et seq., as of January 1, 2001, and the Clean Air Act, 42 U.S.C. 7401 et  
5 seq., as of January 1, 2001, chapters 301, 305, and 321-331 of Title 49, as of January 1, 2001,  
6 and agency regulations enacted or adopted pursuant to the authority of, or to attain compliance  
7 with, these Acts of Congress.

8 Section 4. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 Personal information may be disclosed to any person who demonstrates, in such form and  
11 manner as the department prescribes, that written consent of the person who is the subject of the  
12 information has been obtained.

13 Section 5. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 Personal information may be disclosed to any person by the department on proof of the  
16 identity of the person requesting the record and representation by such person that the use of the  
17 personal information will be strictly limited to the following described uses:

18 (1) For use by any government agency, including any court or law enforcement agency,  
19 in carrying out its functions, or any private person or entity acting on behalf of a  
20 government agency in carrying out its functions;

21 (2) For use in the normal course of business by a legitimate business or its agents,  
22 employees, or contractors, but only under the following circumstances:

23 (a) To verify the accuracy of personal information submitted by the individual to  
24 the business or its agents, employees, or contractors; and

- 1 (b) If such information as submitted is not correct or is no longer correct, to obtain  
2 the correct information for the purposes of preventing fraud by pursuing legal  
3 remedies against, or recovering on a debt or security interest against, the  
4 individual;
- 5 (3) For use in connection with any civil, criminal, administrative, or arbitral proceeding  
6 in any court or government agency or before any self-regulatory body, including the  
7 service of process, investigation in anticipation of litigation, and the execution or  
8 enforcement of judgments and orders, or pursuant to an order of any court;
- 9 (4) For use in research activities, and for use in producing statistical reports, so long as  
10 the personal information is not published, redisclosed, or used to contact individuals;
- 11 (5) For use by any insurer or insurance support organization, or by a self-insured entity,  
12 or its agents, employees, or contractors, in connection with claims investigation  
13 activities, anti-fraud activities, rating, or underwriting;
- 14 (6) For use in providing notice to the owners or lienholders of towed or impounded  
15 vehicles;
- 16 (7) For use by any licensed private investigative agency or licensed security service for  
17 any purpose permitted under this section;
- 18 (8) For use in connection with the operation of private toll transportation facilities;
- 19 (9) For any other use specifically authorized under the law of the state that holds the  
20 record, if such use is related to the operation of a motor vehicle or public safety.

21 Section 6. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
22 follows:

23 The department may, prior to the disclosure of personal information as permitted under  
24 sections 2 to 5, inclusive, of this Act, require the requesting person to meet conditions for the

1 purposes of obtaining reasonable assurance concerning the identity of such requesting person,  
2 and, to the extent required, that the use will be only as authorized, or the consent of the person  
3 who is the subject of the information has been obtained. Such conditions may include the making  
4 and filing of a written application in such form and containing such information and certification  
5 requirements as the department may prescribe.

6 Section 7. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Any authorized recipient, except a recipient of an individual record under section 6 of this  
9 Act, who resells or rediscloses personal information shall maintain for a period of at least five  
10 years records as to the information obtained and the permitted use for which it was obtained for  
11 a period of at least five years and shall make such records available for inspection by the  
12 department, upon request.

13 Section 8. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 No person who requests the disclosure of personal information from department records may  
16 misrepresent his or her identity or make a false statement to the department on any application  
17 required to be submitted pursuant to this Act. A violation of this section is a Class 5 felony.

18 Section 9. That § 32-5-90.2 be repealed.

19 ~~32-5-90.2. The department may issue lists of motor vehicles and information relating to~~  
20 ~~motor vehicles if issuance is necessary for the enforcement of this title or if the list or information~~  
21 ~~is needed to protect the public safety and welfare. In addition, any motor vehicle title or~~  
22 ~~registration list maintained by the department may be made available to the public for a~~  
23 ~~reasonable fee. State agencies are exempt from payment of this fee for approved state use. The~~  
24 ~~lists may not be resold. The secretary may promulgate rules pursuant to chapter 1-26 to establish~~

1 ~~criteria for the sale and to establish the fee for the sale of such lists.~~